

SECOND REGULAR SESSION

HOUSE BILL NO. 2047

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SOMMER.

4306H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 138.060 and 138.431, RSMo, and to enact in lieu thereof two new sections relating to property assessments.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 138.060 and 138.431, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 138.060 and 138.431, to read as follows:

138.060. 1. The county board of equalization shall, in a summary way, determine all appeals from the valuation of property made by the assessor, and shall correct and adjust the assessment accordingly. There shall be no presumption that the assessor's valuation is correct. In any county ~~[with a charter form of government with a population greater than two hundred eighty thousand inhabitants but less than two hundred eighty-five thousand inhabitants, and in any county with a charter form of government with greater than one million inhabitants,]~~ and in any city not within a county, the assessor shall have the burden to prove that the assessor's valuation does not exceed the true market value of the subject property. In ~~[such]~~ **any** county or city **not within a county**, in the event a physical inspection of the subject property is required by subsection 10 of section 137.115, the assessor shall have the burden to establish the manner in which the physical inspection was performed and shall have the burden to prove that the physical inspection was performed in accordance with section 137.115. In such county or city, in the event the assessor fails to provide sufficient evidence to establish that the physical inspection was performed in accordance with section 137.115, the property owner shall prevail on the appeal as a matter of law. At any hearing before the state tax commission or a court of competent jurisdiction of an appeal of assessment from a first class charter county or a city not within a county, the assessor shall not advocate nor present evidence advocating a valuation

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 higher than that value finally determined by the assessor or the value determined by the board
19 of equalization, whichever is higher, for that assessment period.

20 2. The county clerk shall keep an accurate record of the proceedings and orders of the
21 board, and the assessor shall correct all erroneous assessments, and the clerk shall adjust the tax
22 book according to the orders of such board and the orders of the state tax commission, except
23 that in adding or deducting such percent to each tract or parcel of real estate as required by such
24 board or state tax commission, he shall add or deduct in each case any fractional sum of less than
25 fifty cents, so that the value of any separate tract shall contain no fractions of a dollar.

138.431. 1. To hear and decide appeals pursuant to section 138.430, the commission
2 shall appoint one or more hearing officers. The hearing officers shall be subject to supervision
3 by the commission. No person shall participate on behalf of the commission in any case in
4 which such person is an interested party.

5 2. The commission may assign such appeals as it deems fit to a hearing officer for
6 disposition.

7 (1) The assignment shall be deemed made when any scheduling order is first issued by
8 the commission, however, if no scheduling order has been issued, then a hearing officer shall be
9 assigned no later than sixty days after the appeal is filed by the taxpayer.

10 (2) A change of hearing officer, or a reservation of the appeal for disposition as described
11 in subsection 3 of this section, shall be ordered by the commission in any appeal upon the timely
12 filing of a written application by a party to disqualify the hearing officer assigned. The
13 application shall be filed within thirty days from the assignment of any appeal to a hearing officer
14 and need not allege or prove any cause for such change and need not be verified. No more than
15 one change of hearing officer shall be allowed for each party in any appeal.

16 3. The commission may, in its discretion, reserve such appeals as it deems fit to be heard
17 and decided by the full commission, a quorum thereof, or any commissioner, subject to the
18 provisions of section 138.240, and, in such case, the decision shall be final, subject to judicial
19 review in the manner provided in subsection 4 of section 138.470.

20 4. The manner in which appeals shall be presented and the conduct of hearings shall be
21 made in accordance with rules prescribed by the commission for determining the rights of the
22 parties; provided that, the commission, with the consent of all the parties, may refer an appeal
23 to mediation. The commission shall promulgate regulations for mediation pursuant to this
24 section. No regulation or portion of a regulation promulgated pursuant to the authority of this
25 section shall become effective unless it has been promulgated pursuant to the provisions of
26 chapter 536. There shall be no presumption that the assessor's valuation is correct, **and the**
27 **assessor shall have the burden to prove that his or her valuation does not exceed the true**
28 **market value of the subject property.** A full and complete record shall be kept of all

29 proceedings. All testimony at any hearing shall be recorded but need not be transcribed unless
30 the matter is further appealed.

31 5. Unless an appeal is voluntarily dismissed, a hearing officer, after affording the parties
32 reasonable opportunity for fair hearing, shall issue a decision and order affirming, modifying,
33 or reversing the determination of the board of equalization, and correcting any assessment which
34 is unlawful, unfair, improper, arbitrary, or capricious. The commission may, prior to the decision
35 being rendered, transfer to another hearing officer the proceedings on an appeal determination
36 before a hearing officer. The complainant, respondent-assessor, or other party shall be duly
37 notified of a hearing officer's decision and order, together with findings of fact and conclusions
38 of law. Appeals from decisions of hearing officers shall be made pursuant to section 138.432.

39 6. All decisions issued pursuant to this section or section 138.432 by the commission or
40 any of its duly assigned hearing officers shall be issued no later than sixty days after the hearing
41 on the matter to be decided is held or the date on which the last party involved in such matter
42 files his or her brief, whichever event later occurs.

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